

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 1997-141-T - ORDER NO. 2011-718

OCTOBER 5, 2011

IN RE: Application of KB Enterprises, Incorporated)	ORDER APPROVING
d/b/a Two Men and a Truck for a Class E)	EXPANDED AUTHORITY
(Household Goods) Certificate of Public)	
Convenience and Necessity for the Operation)	
of a Motor Vehicle Carrier)	

I. INTRODUCTION

This matter comes before the Public Service Commission of South Carolina (the Commission) on the Application of KB Enterprises, Incorporated d/b/a Two Men and a Truck (“KB” or “the Company”) to amend its Class E (Household Goods) Certificate of Public Convenience and Necessity. The Company’s original Certificate (No. 9494-B) was granted by Order No. 1997-1051, dated December 23, 1997, which granted authority to KB to transport household goods between points and places in Aiken, Calhoun, Fairfield, Kershaw, Lexington, Newberry, Orangeburg, Richland, Saluda, and Sumter Counties to points and places in South Carolina. The Company now proposes that this Commission approve an amendment to the Certificate to allow it to transport household goods between points and places in South Carolina. In other words, KB is now requesting statewide authority.

The Commission’s Clerk’s Office instructed the Company to publish a Notice of Filing in newspapers of general circulation in the Company’s service area. The Company

filed affidavits showing that it had complied with the instructions of the Clerk's Office. No Protests or Petitions to Intervene were filed. Accordingly, a hearing was held on September 21, 2011 at 10:30 a.m. in the offices of the Commission, with the Honorable John E. Howard, Chairman, presiding. John J. Pringle, Jr., Esquire, represented KB. Jeffrey M. Nelson, Esquire, represented the Office of Regulatory Staff (ORS). The Company presented the testimony of Roger Boyer and submitted the deposition testimony of Bryan Feldman into the record. ORS presented the testimony of L. George Parker, Jr.

II. SUMMARY OF TESTIMONY

Roger Boyer of the Company testified. Boyer stated that the Company wants to transport household goods between points and places on a statewide basis. Boyer noted that the Company has experienced phenomenal growth in its 17 years in existence. The Company presently has 14 power units, and expects a gross revenue of \$2.3 million this year. KB expects to perform some 3,000 moves this year also. Two Men and a Truck is a nationally-known franchise and KB owns the Columbia franchise.

Boyer further stated that the Company has gotten numerous calls and proposed referrals requesting that it perform the movement of household goods in areas for which it presently does not possess authority from this Commission. These areas include many different counties in the State. Boyer also noted that the Company now has additional equipment to serve the remainder of the State, and that it can add employees and equipment on an as needed basis to serve its clientele.

KB also presented the deposition testimony of Bryan Feldman. Feldman is co-owner of the Two Men and a Truck franchise in Greenville. Feldman testified that the moving business is clearly growing in South Carolina, when calendar year 2011 is compared to 2010. The Greenville franchise has had an increase of over 15 percent in revenue for this year over last year. The witness stated that, should KB get statewide authority, his company would refer moves to it which were outside of the general Greenville area, especially if they were moves that were terminating in the Columbia area. Feldman stated that his Company was turning away moves because of the large volume of business, and that expanding KB's authority to statewide would help with some of this business.

L. George Parker, Jr., Manager of the Transportation Department of the Office of Regulatory Staff, also testified. Parker visited KB's offices and inspected the Company's equipment, which he stated was in good condition. Parker stated that he believed that it would be in the public interest to approve the amendment of the Company's certificate to allow the statewide movement of household goods. Parker noted that there were no complaints on file with his agency against the Company, and that the Company had no violations of statutes or regulations.

III. APPLICABLE LAW

S.C. Code Ann. Section 58-23-590(C) (Supp. 2010) provides in part as follows:
“The Commission shall issue a common carrier certificate or contract carrier permit of public convenience and necessity if the applicant proves to the Commission that: (1) it is fit, willing, and able to properly perform the proposed service and comply with the

provisions of this chapter and the commission's regulations; and (2) the proposed service, to the extent to be authorized by the certificate or permit, is required by the present public convenience and necessity." 26 S.C. Code Ann. Regs. 103-133 (Supp. 2010) provides in Subsection (1) in part that "An application for a Certificate of PC&N or to amend a Certificate of PC&N to operate as a carrier of household goods or hazardous waste for disposal by motor vehicle may be approved upon a showing that the applicant is fit, willing, and able to appropriately perform the proposed service and that public convenience and necessity are not already being served in the territory by existing authorized service...." The regulation goes on to discuss the terms "fit, willing, and able," and to define them. "The following criteria should be used by the Commission in determining that an applicant for motor carrier operating authority is fit, willing, and able to provide the requested service to the public:

a. FIT. The applicant must demonstrate or the Commission determine that the applicant's safety rating is satisfactory. This can be obtained from U.S.D.O.T and S.C.D.P.S. safety records Applicants should also certify that there are no outstanding judgments pending against such applicant. The applicant should further certify that he is familiar with all statutes and regulations, and agree to operate in compliance with these statutes and regulations.

b. ABLE. The applicant should demonstrate that he has either purchased or leased on a long-term basis necessary equipment to provide the service for which he is applying. Thirty days or more shall constitute a long-term basis. The applicant must undergo an inspection of all vehicles and facilities to be used to provide the proposed service. The

applicant should also provide evidence in the form of insurance policies or insurance quotes, indicating that he is aware of the Commission's insurance requirements and the costs associated therewith.

c. WILLING. Having met the requirements as to "fit and able," the submitting of the application for operating authority would be sufficient demonstration of the applicant's willingness to provide the authority sought."

IV. FINDINGS OF FACT

After full consideration of the Application, the testimony presented, and the applicable law, the Commission makes the following findings of fact:

1. KB is a moving service enterprise which presently holds a Class E (Household Goods) Certificate of Public Convenience and Necessity to transport household goods between points and places in Aiken, Calhoun, Fairfield, Kershaw, Lexington, Newberry, Orangeburg, Richland, Saluda, and Sumter Counties to points and places in South Carolina. The Company is seeking an amendment of that Certificate so as to provide such transportation between points and places in South Carolina, i.e. on a statewide basis.

2. KB is fit, willing, and able to provide and properly perform the services which it seeks to provide. "Fitness" has been demonstrated by the experience of the Company and its personnel in the moving industry and that the Company will operate in compliance with all statutes and regulations pertaining to for-hire motor carrier operations. Further, there are no outstanding judgments pending against the Company. "Able" was demonstrated by the evidence of record which reveals that the Company has

17 years of experience in the movement of household goods, and has obtained more equipment for the provision of moving services. The evidence indicates that KB possesses the financial wherewithal to conduct its expanded business. “Willingness” was demonstrated by the filing of the Application and the testimony of Mr. Boyer indicating the desire of the Company to expand its business in South Carolina.

3. The expanded services proposed by the Company are required by the public convenience and necessity. We find that the testimony and evidence presented on behalf of the Company clearly established that the public convenience and necessity warrant the issuance of the amended certificate for the provision of the statewide transportation of household goods.

V. CONCLUSIONS OF LAW

Based upon the above Findings of Fact and the applicable law, the Commission concludes as follows:

1. The Commission concludes that K.B. has demonstrated that it meets the requirements of fit, willing, and able for an amended certificate as set forth in 26 S.C. Code Ann. Regs.103-133 (Supp. 2010).

2. The Commission concludes that KB has sufficiently demonstrated through its presentation that the public convenience and necessity in the additional area in which the Company proposes to serve requires the services proposed by the Application.

3. Based on the conclusions above, the Commission concludes that KB has demonstrated that it meets the requirements of fit, willing, and able and that the Company has demonstrated that the public convenience and necessity require the additional

services that it proposes. The Commission further concludes that an amended Class E Certificate of Public Convenience and Necessity should be granted and that KB should be authorized to provide moving services as follows:

Household Goods, As Defined in R. 103-210(1):

Between points and places in South Carolina.

This grant of authority is contingent upon compliance with all Commission regulations as outlined below.

IT IS THEREFORE ORDERED:

1. That the Application of KB Enterprises, Incorporated d/b/a Two Men and a Truck for an amendment to its Class E Certificate of Public Convenience and Necessity No. 9494-B be, and is hereby, approved for authority for the Company to transport household goods between points and places in South Carolina.

2. The Company shall file (if it has not already done so) with the Office of Regulatory Staff the proper insurance, safety rating, and other information required by S.C. Code Ann. Section 58-23-10 et. seq. (1976), as amended, and by 26 S.C. Code Ann. Regs. 103-100 through 103-241 of the Commission's Rules and Regulations for Motor Carriers, as amended, and 23A S.C. Code Ann. Regs. 38-400 through 38-503 of the Department of Public Safety's Rules and Regulations for Motor Carriers, as amended, within sixty (60) days of the date of this Order, or within such additional time as may be authorized by the Commission.

3. Upon demonstration of its compliance with S.C. Code Ann. Section 58-23-10 et. seq. (1976), as amended, and the applicable Regulations for Motor Carriers,

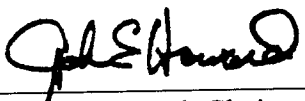
S.C. Code Ann. Regs. Vol. 26 (1976), as amended, as well as the completion of a site visit by the Office of Regulatory Staff, an amended Certificate shall be issued by the Office of Regulatory Staff to the Company authorizing the motor carrier services granted herein.

4. Prior to compliance with the above-referenced requirements and receipt of an amended Certificate, the motor carrier services authorized herein shall not be provided.

5. Failure on the part of the Applicant to either (1) to complete the certification process by complying with the Commission's requirements of causing to be filed with the Office of Regulatory Staff proof of appropriate insurance and an acceptable safety rating within sixty (60) days of the date of this Order or (2) to request and obtain from the Commission additional time to comply with the requirements of the Commission as stated above, shall result in the authorization approved in the Order being revoked

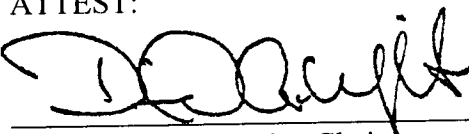
6. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:



John E. Howard, Chairman

ATTEST:



David A. Wright, Vice Chairman
(SEAL)